

Anti-Stalking Ordinance (based on Idaho Code)

Revision date: 07.16.2020

TITLE _____

**AN ORDINANCE FOR THE CITY OF DOVER, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO
ADOPTING LAW PROHIBITING STALKING WITHIN THE CITY: PROVIDING PENALTIES: AND
PROVIDING FOR AN EFFECTIVE DATE.**

OBJECTIVES

The objectives of this ordinance are to:

- Add protections for residents and visitors to the City of Dover.
- Act in the interest of public safety and the health and welfare of Dover residents.
- Prevent repeated instances of harassment

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BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IDAHO:

SECTION 1: SHORT TITLE

This Ordinance shall be referred to as the "Anti-Stalking Law of the City of Dover, Bonner County, ID."

SECTION 2: DEFINITIONS

"Course of Conduct" means repeated acts of nonconsensual contact involving the victim or a family or household member of the victim, provided however, that constitutionally protected activity is not included within the meaning of this definition.

"Family or household member" means: (i) A spouse or former spouse of the victim, a person who has a child in common with the victim regardless of whether they have been married, a person with whom the victim is cohabiting whether or not they have married or have held themselves out to be husband or wife, and persons related to the victim by blood, adoption or marriage; or (ii) A person with whom the victim is or has been in a dating relationship, as defined in section 39-6303, Idaho Code; or (iii) A person living in the same residence as the victim.

"Follows" or "Following" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

"Maliciously" means (i) the course of conduct has the purpose or effect of unreasonably interfering with the victim's privacy or the purpose or effect of creating an intimidating, hostile, or offensive living environment for the victim; (ii) the victim has given clear notice that contact is unwanted; and (iii) the course of conduct is not necessary to enforce the law or meet specific statutory requirements.

"Nonconsensual contact" means any contact with the victim that is initiated or continued without the victim's consent, that is beyond the scope of the consent provided by the victim, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued. Nonconsensual contact includes, but is not limited to:

- (i) Following the victim or maintaining surveillance, including by electronic means, on the victim;
- (ii) Contacting the victim in a public place or on private property;
- (iii) Appearing at the workplace or residence of the victim;
- (iv) Entering onto or remaining on property owned, leased or occupied by the victim
- (v) Contacting the victim by telephone or causing the victim's telephone to ring repeatedly or continuously regardless of whether a conversation ensues;

- (vi) Sending mail or electronic communications to the victim; or
- (vii) Placing an object on, or delivering an object to, property owned, leased or occupied by the victim.

"Victim" means a person who is the target of a course of conduct.

"Repeated" or "Repeatedly" means on two or more separate occasions.

SECTION 3: APPLICABILITY

(1) A person commits the crime of stalking if the person knowingly and maliciously: (a) Engages in a course of conduct that seriously alarms, annoys, harasses or is detrimental to the victim, and is such as would cause a reasonable person substantial emotional distress; (b) Follows the victim and engages in a course of contact that seriously alarms, annoys, harasses or is detrimental to the victim, and is such as would cause a reasonable person substantial emotional distress; or (b) Engages in a course of conduct such as would cause a reasonable person to be in fear of death or physical injury, or in fear of the death or physical injury of a family or household member.

SECTION 4: DEFENSES

(2) (a) It is not a defense to the crime of stalking that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and
(b) It is not a defense to the crime of stalking that the stalker did not intend to frighten, intimidate, or harass the person.

It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license.

Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person.

SECTION 5: VIOLATION; PENALTIES

The City of Dover, or any individual subjected to stalking within the City of Dover, may file a civil claim for stalking and pursue civil remedies, including an injunction. Any person found violating this ordinance by a preponderance of the evidence shall be liable for a civil penalty of \$1,000 for each offense, or actual damages, whichever is greater. For any stalking action brought pursuant to this Code section, the prevailing party shall be entitled to an award of its reasonable attorney's fees.

SECTION 6: SAVING CLAUSE

The sections of this Ordinance are severable. Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining provisions.

SECTION 7: EFFECTIVE DATE

This Ordinance shall be effective upon publication in one (1) issue of the Bonner County Daily Bee.

Enacted as an ordinance of the City of Dover, Idaho on the ____day of _____ 2020 upon the following roll call vote.

Approved by the Mayor this ____day of _____, 2020

, Mayor

Attest_____
, City Clerk